

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

**DELTA-MONTROSE ELECTRIC
ASSOCIATION,**
Complainant,
v.
**TRI-STATE GENERATION AND
TRANSMISSION ASSOCIATION, INC.**
Respondent.

PROCEEDING NO. 18F-0866E

**JOINTMOTION TO PARTICIPATE AS *AMICUS CURIAE* OF
HIGHLINE ELECTRIC ASSOCIATION, Y-W ELECTRIC ASSOCIATION, INC.,
MOUNTAIN PARKS ELECTRIC, INC.**

Highline Electric Association (“HEA”), Y-W Electric Association (“Y-WEA”), and Mountain Parks Electric, Inc. (“MPEI”)(collectively, “Movants”), by and through their respective undersigned legal counsel, pursuant to Rule 1200(c) of the Rules of Practice and Procedure (4 CCR 723-1), move to participate in these proceedings as *amicus curiae*. Counsel for Movants contacted counsel for the parties in this proceeding to ascertain the parties’ positions on this motion. Counsel for Delta-Montrose Electric Association (“DMEA”) does not oppose this motion. Counsel for Tri-State Generation and Transmission Association, Inc. (“Tri-State”) does not oppose this motion. In support of this motion the Movants state as follows:

1. On December 6, 2018, DMEA caused to be filed a complaint against Tri-State seeking intervention on a contractual dispute involving an exit fee for DMEA to withdraw from membership in Tri-State.
2. Movants, like DMEA, are cooperative electric associations and public utilities that have been deregulated from Commission jurisdiction pursuant to Section 40-9.5-103, Colorado Revised Statutes.
3. Movants purchase a substantial portion of their wholesale electric power and energy from Tri-State through a purchase power contract.
4. Tri-State is a cooperative association in which movants have a membership interest.
5. Tri-State is a nonprofit electric generation and transmission corporation. The Commission does not have jurisdiction over the terms of Tri-State’s power purchase contracts with its constituent members nor the terms of Tri-State’s membership interests.

6. In order to be allowed to participate in these proceedings as *amicus curiae*, Movants must identify why they have an interest in the proceeding, identify the issues that they will address through argument, and explain why the legal argument may be useful to the Commission. 4 Colo. Code Regs. § 723-1:1200(c).

7. Movants have an interest in the proceeding because Movants' contract with Tri-State, membership interest in Tri-State, and the proper forum for determining related disputes may all be affected by the outcome of these proceedings. Should the Commission decide it has jurisdiction in this case, it may render a decision affecting some of Movants' contract rights with Tri-State as well as affecting the proper venue for determination of those rights. Similarly, such an exercise of jurisdiction may also produce a decision by the Commission that affects Movants' membership rights and the proper forum for determination of those rights.

8. Movants intend to address through argument the Commission's lack of jurisdiction over these proceedings.

9. Movants' legal arguments may be useful to the Commission because Movants are uniquely situated to address the Commission's jurisdiction. Like DMEA, Movants are Colorado cooperative electric associations and public utilities that have been deregulated from Commission jurisdiction pursuant to Section 40-9.5-103, Colorado Revised Statutes. Unlike DMEA, Movants contend that the Commission does not have jurisdiction to resolve matters related to an exit fee charged by a nonprofit generation and transmission electric corporation to its constituent nonprofit distribution cooperative electric association members. Because Movants and DMEA are similarly situated but have opposing arguments as to the Commission's jurisdiction in the matter, Movants are uniquely situated to provide legal arguments that may be useful to the Commission.

10. Movants request leave of the Commission to participate in these proceedings as *amicus curiae*. In addition, Movants request that the Commission set a briefing schedule for amicus briefs upon granting this motion or at the February 6 status conference.

Respectfully submitted this 9th day of January, 2019.

By: s/ Levi D. Williamson
Levi D. Williamson, #35063
Attorney for HEA, Y-WEA, and MPEI
Williamson & Associates, Ltd.
PO Box 70
214 Poplar St.
Sterling, CO 80751
T: 970-522-2341
E: lwilliamson@awwlawyers.com

By: s/ Bryson R. Fredregill
Bryson R. Fredregill, #49055
Attorney for HEA, Y-WEA, and MPEI
Williamson & Associates, Ltd.
PO Box 70
214 Poplar St.
Sterling, CO 80751
T: 970-522-2341
E: bfredregill@awwlawyers.com